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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,428	12/22/2000	Neelam N. Vaidya	0007056-0174/P5701NP/ARG/	1488

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EXAMINER
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ART UNIT	PAPER NUMBER
2164	

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04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action ***Before the Filing of an Appeal Brief***	Application No. *09/747,428*	Applicant(s) VAIDYA ET AL.	
	Examiner Sana Al-Hashemi	`Art Unit 2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>23 March 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.
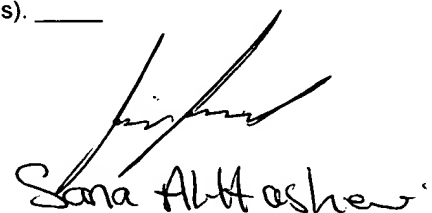
   Claim(s) rejected: *1-24*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
<u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the prior art fails to disclose the limitation of " modifying one or more state attributes associated with said nodes to control merging and updating of layers to a resulting layered hierarchical database in response to said client request".

Examiner disagrees. First of all Applicant argues the specification which is not in the claims language, and this make this argument invalid argument, since applicant any argues the claimed subject matter and claimed in the claim language and not as defined in the specification. However, the Examiner will address the applicant argument in light of the specification to some extend. Applicant specifies the state attribute in the specification is "The state attribute has information relating to the last operation that was performed on its corresponding data element." Which could be a way identifying the change in the state attributes and since the claims are given the broadest reasonable interpretation, Examiner relied on the Col. 3, lines 24-28, of Howland, wherein the Howland clearly discloses the use of updating the attribute value which corresponds to the state attribute and presents that specific attribute with the most recent update value corresponds to the definition of the "state attribute" and referring to Col. 3, lines 28-33, Howland discloses the step of merging the updated value of the nodes which corresponds to the claimed "layers" which resulting layered in a hierarchical database Col. 3, lines 34-41.

Applicant argues that the "combination of Bunnell and Velonis fails to teach or suggest managing said nodes using said state attributes, wherein each one of said state attributes comprises an eXtensible Markup Language (XML) format attribute".

Examiner disagrees. Nowhere in the specification Applicant disclose the state attributes comprises XML, format attribute. However, the XML and HTML both are mark up languages and replacing HTML with the XML may improve the web developers and designers performance by allowing the to create customized tags that offer greater flexibility in organizing and presenting information than is possible with the older HTML document coding system. XML a language standard published by the W3C and supported by the industry. Applicant is requested to points out where in the specification this limitation is defined.

Applicant argues that the references applied fails to disclose the "each one of said state attributes includes a value of one of default, replace, modified, and deleted, indicating a last action taken on a corresponding data element".

Examiner disagrees. Refereeing to Col. 3, lines 24-34, Howland discloses the argued limitation.